

Cynthia L. Walker
Shelby K. Towe
BOONE KARLBERG P.C.
201 West Main, Suite 300
P. O. Box 9199
Missoula, MT 59807-9199
Phone: (406) 543-6646
Fax: (406) 549-6804
cwalker@boonekarlberg.com
stowe@boonekarlberg.com
Attorneys for Defendant J.P. Gallagher

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION

THE IMPERIAL SOVEREIGN COURT
OF THE STATE OF MONTANA; ADRIA
JAWORT; RACHEL CORCORAN;
MONTANA BOOK COMPANY;
IMAGINE BREWING COMPANY, LLC
d/b/a IMAGINE NATION BREWING
COMPANY; BUMBLEBEE AERIAL
FITNESS; MONTANA PRIDE; THE
WESTERN MONTANA COMMUNITY
CENTER; THE GREAT FALLS LGBTQ+
CENTER; THE ROXY THEATER; and
THE MYRNA LOY,

Plaintiffs,

v.

AUSTIN KNUDSEN; ELSIE ARNTZEN;
and J.P. GALLAGHER; and THE CITY
OF HELENA,

Defendants.

CV 23-50-BU-BMM

**DECLARATION OF
J.P. GALLAGHER**

I, J.P. Gallagher, declare and state as follows:

1. I am a Defendant in this action, have personal knowledge of the facts set forth in this declaration and am over the age of 18 and otherwise competent to testify.

2. I make this declaration in support of my response to Plaintiffs' motion for preliminary injunction.

3. I am the Chief Executive of the City and County of Butte-Silver Bow (BSB) and have served in that capacity since January 2021. I am responsible for oversight, and have knowledge, of BSB's operations.

4. Prior to Plaintiff Adria Jawort's talk at the BSB Public Library scheduled to occur on June 2, 2023, I was informed that Ms. Jawort posted a message on Twitter stating:

"PROHIBITING DRAG STORY HOUR IN SCHOOLS AND LIBRARIES..."

And I will def have a book & sexuality will be discussed & minors may be present, & the State of Montana doesn't legally recognize people being trans, so...

[Photo of HB 359's definition of drag queen next to photo of Jawort]

I do an LGBTQ/2 Spirit history lecture at a library June 2.

I'm really entertaining at this one, too.

#MostHumblest

BUT this literally might be illegal in Mont. as a flamboyantly dressed trans woman.

I don't get paid, but in fascist red state you pay state 4 "crimes"

instead. 😊

A true and accurate copy of Ms. Jawort's post that was provided to me is attached as **Exhibit A**.

5. I was also informed that in a social media group chat prior to her scheduled talk, Ms. Jawort posted a message stating: "I would do a drag queen story hour there and then sue for 1st Amendment. In fact I have an event AT the Butte library June 2d talking about LGBTQ history." A true and accurate copy of the group chat thread that was provided to me is attached as **Exhibit B**.

6. Based on the ambiguous language of HB 359, possible criminal penalties and civil liability associated with violating HB 359, and Jawort's statements, I made the decision on behalf of BSB, in consultation with BSB County Attorney Eileen Joyce, to cancel Ms. Jawort's talk at the BSB Library until BSB could ensure that Ms. Jawort's talk would not violate HB 359.

7. Neither I nor the BSB County Attorney was aware that BSB Library employee Shari Curtis had sent an email (Doc. 5-2, pp. 7-8) to numerous people on June 1, 2023, including Ms. Jawort, informing them that the talk on June 2, 2023 was canceled because I and the County Attorney "have decided it is too much of a risk to have a trans-person in the library." The statement contained in Ms. Curtis's email is not accurate and she was not authorized by BSB to make such a statement.

8. BSB's decision to cancel Ms. Jawort's talk was not because she is

transgender, because she wears makeup, and/or because she intended to speak about LGBTQ+ issues, as alleged in Paragraph 71 of her complaint (Doc. 3).

9. On June 1, 2023, I attempted to call Ms. Jawort to discuss her scheduled talk to address BSB's concerns about HB 359, but she declined to speak with me.

10. The following day, I also sent a letter to Ms. Jawort explaining BSB's decision to cancel her talk at the BSB Library. A true and accurate copy of the letter I sent is attached as **Exhibit C**.

11. In my letter, I stated that BSB is open to discuss with Ms. Jawort the rescheduling of her talk with her assurance and appropriate parameters in place to ensure that HB 359, while it remains the law, will not be violated.

12. My letter also stated that I would like to meet with Ms. Jawort to figure out a solution that will allow her to present her talk and that I would be happy to schedule a time to meet with her at her convenience to talk through BSB's concerns and come up with a solution that will allow her to present her talk.

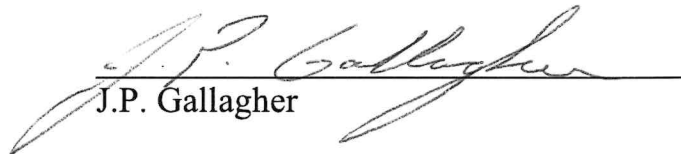
13. To date, Ms. Jawort has not contacted me to discuss rescheduling her talk.

14. Ms. Jawort gave the same talk she planned to give at the Butte Public Library on June 2, 2023, at the Carpenter's Union Hall in Butte, Montana, on June 20, 2023.

15. On August 3, 2023, I requested that my attorney extend an invitation to Ms. Jawort, through her attorneys, to speak at the BSB Library. As of the date of this Declaration, Ms. Jawort has not contacted the BSB Library Director to schedule a date.

I declare under penalty of perjury under the laws of the State of Montana that the foregoing is true and correct.

DATED this 4th day of August, 2023.


J.P. Gallagher